

Robert Rapp

From: LEWIS FRANCIS [LFRANCIS@joneswaldo.com]
Sent: Monday, July 23, 2007 3:40 PM
To: Robert Rapp
Cc: JEROME ROMERO
Subject: Re: Discovery issues

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Work - Large

well, I'm not sure our discussion went exactly as you stated.

First, Hammerton will produce its specific sales information when Kahm does. In fact, we requested that information and documents from Kahm back in January (as detailed in a letter I am sending you today). Also, those requests include such information on all of Kahm's light fixture products, not just the ones already specifically identified. This is especially true given the fact that Hammerton now has a trade secret claim which applies to all products, in addition to those relevant to its trade dress and patent claims.

Second, Hammerton agreed to give you a list of its present and former employees, as requested in your discovery requests.

Third, Hammerton agreed to give you any documents regarding the reduction to practice of its patents. I will follow up with documents regarding sales of the prior pine cone, as I agree that may be relevant if you do not prevail on your pending summary judgment.

Fourth, we will be seeking a two month discovery extension and plan to file a motion this week. You offered three week extension is simply insufficient.

Fifth, on the proposed deposition dates, Levi Wilson already informs me that he will be out of town From August 24 to 31st. Let me know if we can do Heisterman's deposition on Thursday August 9, or Friday August 10th.

Lewis Francis

From: Robert Rapp [mailto:rapp@maiplaw.com]
Sent: Friday, July 20, 2007 4:21 PM
To: LEWIS FRANCIS
Subject: Meeting

Lewis,

I just wanted to summarize what we discussed at our meeting.

- You indicated that you will be producing all of Hammerton sales and advertising data, current and former employee information (names, last known contact information & agreements with), and Mountain Moose prior art (documents + sales data re things having pine cones of any kind during or before 1999);

- I believe that you indicated that you would produce this information on or before the end of next week, i.e., on or before July 27.

- you indicated that you are in favor of a one-month extension, while we are in favor of something shorter, such as three weeks; given the approach the Judge Cassell has to this matter, I think we should proceed as if there will be no extension until one is granted.

Please indicate to me immediately if any of this information is not accurate.

Robert S. Rapp
MADSON & AUSTIN
Gateway Tower West
15 West South Temple, Suite 900
Salt Lake City, Utah 84101
(801) 537-1700 (voice)
(801) 537-1799 (fax)

The information contained in this e-mail transmission is confidential information and may be attorney/client privileged. It is intended only for the use of the individual or entity named above. If you are not the intended recipient, or if you have received this communication in error, please notify us by telephone at the above number. ANY DISTRIBUTION OR COPYING OF THIS MESSAGE IS PROHIBITED, except by the intended recipient.

No virus found in this incoming message.

Checked by AVG Free Edition.

Version: 7.5.476 / Virus Database: 269.10.14/912 - Release Date: 7/22/2007 7:02 PM